

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0331-03
Bill No.: HCS for SCS for SB 29
Subject: Drugs and Controlled Substances; Pharmacy; Veterinarians
Type: Original
Date: April 21, 2011

Bill Summary: Modifies the authority of the Board of Pharmacy with regard to certain drugs used in veterinary medicine.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(\$205,422)	(\$244,334)	(\$247,812)
Total Estimated Net Effect on General Revenue Fund	(\$205,422)	(\$244,334)	(\$247,812)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Board of Healing Arts	(\$105,173)	(\$124,961)	(\$127,639)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$105,173)	(\$124,961)	(\$127,639)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	3	3	3
Board of Healing Arts	2	2	2
Total Estimated Net Effect on FTE	5	5	5

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Mental Health, Department of Corrections, Department of Public Safety - Missouri State Highway Patrol, Missouri Consolidated Health Care Plan** and **Office of State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Secretary of State (SOS)** state authority is given to the Department of Health and Senior Services and the Division of Professional Registration (licensing boards) to promulgate rules. These rules will be printed by our division in the Missouri Register and the Code of State Regulations. Based on experience with other departments, the rules, regulations, and forms issued by the Department of Health and Senior Services and the Division of Professional Registration (licensing boards) could require as many as 106 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes, and the like are not repeated in the Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. The SOS estimates FY 12 costs of \$6,519 [(159 pgs. X \$23) + (106 pgs. X \$27)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Section 197.705 - Health Care Professional Identification Badges

Officials from the **Department of Health and Senior Services** assume the Department will be required to draft and promulgate rules to implement the provisions of Section 197.705. Checks for compliance with the requirements of the legislation and any rules promulgated will be added to the routine survey process. The Department assumes this legislation can be implemented with existing staff and resources, therefore it is not expected to result in a fiscal impact.

Officials from the **Department of Social Services** states the legislation sets uniform standards for ID badges required of employees in hospitals, hospital-based long term care facilities, and ambulatory surgical centers. Badges must include a recent photograph of the employee, the employee's first name, title, and the name of the health care facility or organization. The bill even specifies the size and type of font for the title.

ASSUMPTION (continued)

Since the identification badges are currently required and only the content is being dictated in the new requirements of this proposal, the additional costs would be the difference between current ID badges being used and meeting of the new requirements. In addition, a reasonable time frame was used for replacement with a five year deadline from the effective date of the legislation.

The additional costs could be reflected in rates, however because of the rate setting time frames and methods, any additional costs would not be reflected in rates until SFY15 at the earliest. Hospital rates are based on the fourth prior year cost report, therefore 2012 would not be reflected until 2016. Nursing facility rates do not have an annual defined cost report year basis, however, if there was a nursing facility rate rebase using the 2012 cost reports, SFY15 would be the earliest possible effective date.

Section 302.291 - Counselors Added to Report Condition to Disqualify a Person From Driving

Officials from the **Department of Revenue (DOR)** state the changes outlined in this proposed legislation will require DOR to modify current forms, procedures and website information related to reporting of impaired or unsafe drivers.

The DOR anticipates the following administrative costs relating to this proposal:

•	Draft updates to web, forms and procedures			
	Management Analyst Specialist II	10 hrs @ \$23	=	\$ 230
	Revenue Band Manager	10 hrs @ \$30	=	\$ 300
•	Update Web Page - Administrative Analyst III	10 hrs @ \$22	=	\$ 220
•	Update Forms - Management Analysis Spec I	40 hrs @ \$20	=	\$ 800
•	Update Procedures - Management Analysis Spec I	40 hrs @ \$20	=	<u>\$ 800</u>
				\$2,350

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes DOR could absorb the personal service costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, the DOR could request funding through the appropriation process.

ASSUMPTION (continued)

The DOR states it is unknown how many of the professional counselor reports received by department would generate a revocation/ reinstatement of the driver license. Although the volume of reports is unknown, the DOR anticipates the fiscal impact for processing would be minimal.

Sections 324.043, 324.045, 334.001 - 334.108, 334.715, 536.063 - 536.070, 621.045, 621.100, and 621.1100 - Administrative Procedures for Professions Licensed by Professional Registration Including Board of Registration for the Healing Arts

Officials from the **Office of Administration - Administrative Hearing Commission (AHC)** state AHC hears complex cases, including tax and professional licensing cases. A recent case involving the discipline of a neurosurgeon involved 12 days of hearing, 2,223 pages of transcript, and 18 depositions comprised of 1,326 pages of additional testimony with attending exhibits. The AHC is requesting two attorneys and a paralegal to meet the 120 day deadline for delivery of decisions. Expenditures include equipment/furniture for offices, computers and Westlaw expenses.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the proposal will increase enforcement authority for the Board of Registration for the Healing Arts and allow the board to resolve cases in a more timely manner. The board believes it will need an additional legal counsel (\$54,080 annually) and an office support assistant (\$21,984 annually) to accomplish the duties of the proposal.

Officials from the **Office of Attorney General** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to similar legislation from the current session (HCS HB 732), the AGO assumes any potential costs arising from the proposal could be absorbed with existing resources. If there is a significant increase in the number of referrals, the AGO may seek additional appropriation.

Officials from the **Office of Prosecution Services (OPS)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to similar legislation from the current session (HB 499 and HCS HB 732), the OPS assumed the proposals would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Costs - AHC</u>			
Personal service costs (3 FTE)	(\$127,420)	(\$155,141)	(\$157,424)
Fringe benefits	(\$66,692)	(\$81,201)	(\$82,396)
Equipment and expense	<u>(\$11,310)</u>	<u>(\$7,992)</u>	<u>(\$7,992)</u>
Total <u>Costs</u> - AHC	<u>(\$205,422)</u>	<u>(\$244,334)</u>	<u>(\$247,812)</u>
FTE Change - AHC	3.0 FTE	3.0 FTE	3.0 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$205,422)</u>	<u>(\$244,334)</u>	<u>(\$247,812)</u>
Estimated Net FTE Change on General Revenue Fund	3.0 FTE	3.0 FTE	3.0 FTE
BOARD OF HEALING ARTS FUND			
<u>Costs - DIFP</u>			
Personal service costs (2 FTE)	(\$63,387)	(\$76,825)	(\$77,593)
Fringe benefits	(\$33,177)	(\$40,210)	(\$40,612)
Equipment and expense	<u>(\$8,609)</u>	<u>(\$7,926)</u>	<u>(\$9,434)</u>
Total <u>Costs</u> - DIFP	<u>(\$105,173)</u>	<u>(\$124,961)</u>	<u>(\$127,639)</u>
FTE Change - DIFP	2.0 FTE	2.0 FTE	2.0 FTE
ESTIMATED NET EFFECT ON BOARD OF HEALING ARTS FUND	<u>(\$105,173)</u>	<u>(\$124,961)</u>	<u>(\$127,639)</u>
Estimated Net FTE Change on Board of Healing Arts Fund	2.0 FTE	2.0 FTE	2.0 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Depending on the definition of "health care facilities", there could be an impact to small businesses to provide the required identification badges. (§197.705)

The proposal may impact small business medical offices if they find out employed nurses have had their licenses sanctioned. (§324.013)

The proposal may have an administrative and/or fiscal impact on small businesses licensed by the Division of Professional Registration. (§§324.043, 324.045, 334.001 - 334.108, 334.715, 536.063 - 536.070, 621.045, 621.100, and 621.1100)

The proposal may have a minimal administrative fiscal impact on small business veterinarians. (§§338.010 - 338.240)

The proposal may impact small business real estate licensees as they may be have greater immunity from statements made by certain experts. (§339.190)

FISCAL DESCRIPTION

This proposal modifies disciplinary and administrative procedure provisions that apply to professions and businesses licensed by the Division of Professional Registration or by any board committee, commission or office within the division of professional registration. The proposal also modifies the licensing requirements and disciplinary powers of the Board of Registration for the Healing Arts.

If a person who is licensed by any board, committee, commission, or office under the Division of Professional Registration does not defend against a disciplinary proceeding, the appropriate board is authorized to enter a default decision against the person.

The Administrative Hearing Commission is required to deliver the findings of fact and conclusions of law in disciplinary cases to the appropriate agency within one hundred and twenty days of the date the case became ready for decision.

BOARD OF REGISTRATION FOR THE HEALING ARTS

The board is required to make individuals applying for a license or holding a license submit to an evaluation of their skills, a multi-disciplinary evaluation, or a substance abuse evaluation, if there is cause to believe that the individual is incompetent, mentally or physically incapacitated, or habitually intoxicated or dependent on drugs.

HWC:LR:OD

FISCAL DESCRIPTION (continued)

When the board refuses an applicant for license or for renewal of a license and the Administrative Hearing Commission reviews that decision, the board is authorized to retain discretion to refuse the license, regardless of the decision of the Administrative Hearing Commission.

The disciplinary authority of the board is modified to allow the board to discipline licensees for certain municipal violations, for prescribing drugs through the internet without a valid physician-patient relationship, for being listed on a sex offender registry, for any unethical or unprofessional conduct, for a single act of negligence, for making a false statement to the board, for failing to comply with a treatment program, for participating in a drug court, and for violating any professional trust or confidence.

The board's authority to issue an emergency suspension or restriction of a licensee's license is modified to allow additional reasons for an emergency suspension or restriction. The procedure for issuing emergency restrictions or suspensions is also modified. Emergency suspensions will take effect when the documents are served, rather than after a preliminary hearing before the Administrative Hearing Commission. The emergency restriction or suspension may be appealed to the circuit court.

The board is also authorized to initiate hearings before itself when disciplining a licensee's license for certain actions. The board's disciplinary decision is appealable to the circuit court.

Regardless of whether another law prohibits the board to access records of a peer review committee, medical executive committee, hospital, pharmacy, or any other person, the board is authorized to subpoena those records. (§§324.043, 324.045, 334.001 - 334.108, 334.715, 536.063 - 536.070, 621.045, 621.100, and 621.1100)

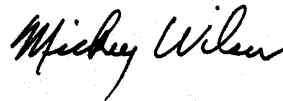
This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Administrative Hearing Commission
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Office of Secretary of State
Office of State Public Defender

NOT RESPONDING: Office of Attorney General and Office of Prosecution Services

Mickey Wilson, CPA

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Director
April 21, 2011